

Remarks

Claims 1-5, 10, 12-13 and 15-42 have been canceled without prejudice. Claims 6 and 11 have been amended. Applicants respectfully request the Examiner to reconsider the restriction of claims 9 and 14 and rejoin these claims.

Objection to the specification

In response to the objection to the specification as lacking headings per 37 C.F.R. 1.77(b), Applicants again respectfully disagree that headings are required and point out that 37 C.F.R. indicates that the specification should include the headings listed in the Office Action. Accordingly, Applicants submit that arrangement of the specification with the headings is not mandatory and therefore respectfully request the Examiner to remove this objection.

Claim Rejection – 35 U.S.C. 112, first paragraph

Applicants agree with the Examiner in that the specification is enabling for administering the claimed compounds to a specific population or patients having disease pattern and/or conditions associated with acne and/or acne follicular reactions. In order to expedite allowance of the instant application, Applicants have amended the claims accordingly. The Examiner is therefore respectfully requested to reconsider and withdraw the rejection.

Claim Rejections – 35 USC 102(e)

The claims stand rejected based on the contention that they are anticipated by U.S. Patent No. 7,229,969. In imposing this rejection, the Examiner has indicated that the '969 patent is a 371 of WO 02053170, filed 21 Dec 2001. In this regard, Applicants point out that this WO reference was not published in English, and therefore, this reference does not have a 102(e) date and is available for citation only as of its date of publication or grant. However, the instant application has a priority claim at least as early of March 7, 2003 as national phase filing from PCT/EP03/02356, which is prior to the publication or grant date of the '969 patent. Therefore, Applicants respectfully submit that the '969 patent is not citable in the instant case. (See MPEP 706.02(f)(1) and flowchart for 35 USC 102(e) for US Patents and publications thereof.)

Conclusion

Based on the foregoing amendments and remarks, Applicants believe the claims are now in condition for allowance. The Examiner is respectfully requested to remove the rejections and allow the application. Applicants request a two-month extension of time to file this response. An RCE is filed herewith. Any fees due may be charged to Deposit Account no. 08-2442.

Respectfully submitted,

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